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Orange County	SUPERIOR
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CENTRAL JUSTIC	E CENTER
PEOPLE OF THE STATE OF CALIFORNIA,	) Case No.: M-17638
Plaintiff,	}
vs.	<ul><li>) NOTICE OF INTERVENTION AND</li><li>) JOINDER</li></ul>
	}
JOHN DOES 1-58,	}
Defendant(s).	}
	_{
TO THE CLERK OF THE ABOVE-ENT	FITLED COURT, TO THE ORANGE
COUNTY COUNSEL, AND TO THE DISTRIC	CT ATTORNEY FOR ORANGE
COUNTY:	
The Office of the Orange County Alternate	Public Defender (hereinafter "ALTS")
hereby requests the Court leave to intervene and jo	oin in the above-referenced litigation
involving the alleged unlawful recording and eave	sdropping of attorney-client
conversations by the Sheriff's Department. To the	extent necessary to protect their own
attorney-client communications, the ALTS further	request the Court to permit them to join
in the relief requested by the Office of the Public I	Defender, and any further relief ordered
by this Court.	
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	Alternate Public Defender Orange County Randy K. Ladisky, SB#200279 Senior Deputy Alternate Defender 600 W. Santa Ana Blvd., Suite 600 Santa Ana, California 92701  Telephone: (714) 568-4160 Fax: (714) 568-4200  SUPERIOR COURT OF THE ST  COUNTY OF OR CENTRAL JUSTIC  PEOPLE OF THE STATE OF CALIFORNIA,  Plaintiff,  vs.  JOHN DOES 1-58,  Defendant(s).  TO THE CLERK OF THE ABOVE-ENT COUNTY COUNSEL, AND TO THE DISTRIC COUNTY:  The Office of the Orange County Alternate hereby requests the Court leave to intervene and joinvolving the alleged unlawful recording and eave conversations by the Sheriff's Department. To the attorney-client communications, the ALTS further in the relief requested by the Office of the Public I by this Court.

Alternate Defender Notice of Joinder/Intervention TEEL GTL PRA 078

## **INTRODUCTION**

During the recent litigation involving *People v. Joshua Waring* (17WF2266), it came to the light that the Orange County Sheriff, through its third party vendor, Global Tel Link, Corporation (hereinafter "GTL"), had recorded approximately 1,079 inmate telephone calls made during the previous three years to phone numbers that were designated by the County as "do not record". It is suspected that the majority, if not all, of those phone calls involved inmates' conversations with their attorneys, including the Office of the Public Defender, and the ALTS. It goes without saying that those recorded phone calls fall under the umbrella of the attorney-client privilege pursuant to Evidence Code Section 954 Et. Seq. During the present emergency order request, this Court received a list (under seal) of approximately 58 of 1,079 inmate calls that were not only recorded, but "accessed" by the Orange County Sheriff (and according to GTL, in some circumstances, by GTL themselves) a total of 87 times. In other words, some recorded attorney-client phone calls were accessed multiple times.

On request of the Public Defender, this Court recently ordered any law enforcement or prosecuting agency to return any suspected attorney-client privileged recordings to a special master, appointed by this Court. Additionally, this Court further ordered any prosecuting or law enforcement agency to cease listening to, or otherwise accessing, any recorded attorney-client inmate phone calls.

The ALTS are an interested party in the pending litigation because approximately 10 of those 58 recorded and "accessed" attorney-client communications were placed to phone numbers assigned to the ALTS. Unknown at this time is how many of the entire 1,079 recorded attorney-client phone calls were placed to phone numbers assigned to the ALTS. Additionally, within the past two days, the District Attorney for Orange County formally notified the ALTS of 3 past/present incarcerated clients, by name, whose phone

<sup>&</sup>lt;sup>1</sup> And by "accessed" it is still unclear whether those phone calls were recorded, listened to, or downloaded by the Sheriff's Department. Yet to be determined is the extent to which the recordings were listened to and provided to prosecuting attorneys.

calls were recorded and "accessed" by the Sheriff and/or it's vendor GTL.<sup>2</sup> However, the ALTS still have 6 un-accounted for phone calls that were recorded and "accessed", but for which no identifying inmate information was provided.

The ALTS recognize that this Court's August 20<sup>th</sup>, 2018 order has, at least for the time being, satisfied its interests in preventing further intrusions upon its attorney-client communications. However, the ALTS wish to be heard to the extent that further relief is warranted, or additional orders requested.

Dated: 8-22-18

Respectfully Submitted,

By Randy K. Ladisky Attorney at Law

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Senior Deputy Alternate Defender

<sup>&</sup>lt;sup>2</sup> The ALTS were NOT notified of an additional inmate, whose inmate identifying information was coincidentally recognized, whose attorney-client communication was recorded and "accessed". Thus the ALTS should have received notification of the breech on four (not three) current/past clients.